HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.6879 of 1998

Dated 15th Day of March, 2007

Between:

Sarvodaya Sangh, rep. by
its President, Bh. Chandramouleswara Rao,
Warangal .. Petitioner

And

The A.P. Khadi and Village Industries
Board, Hyderabad
and two others ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the auction notice dated 19.1.1998 issued by the Mandal Revenue Officer, Geesugonda, as arbitrary and illegal, and consequently direct the respondents to drop recovery proceedings from the petitioner-Sangh.

The brief facts of the case are that the petitioner is a registered society formed with the object of promoting Khadi and Village Industries The petitioner carried on its business activities for a long time with voluntary contributions and later with the loans and grants sanctioned by the A.P. Khadi and Village Industries Board and the All India Khadi and Village Industries Commission, Bombay. Now, the petitioner's grievance is that the 3rd respondent, without giving any prior intimation to the petitioner, issued auction notice dated 19.1.1998 proposing to put Ac.8.15 guntas of land belonging to the petitioner to auction on 18.3.1998 for recovery of Rs.7,13,570.26 due from it.

Heard the learned counsel for the petitioner.

A detailed counter affidavit is filed wherein it is stated that the 3rd respondent, after issuing Form Nos.5, 7 and 7-A notices and publishing them in the District Gazette, conducted public auction on 18.3.1998, and thus, followed the procedure under A.P. Revenue Recovery Act while conducting the auction.

The main thrust of the learned counsel for the petitioner is that the Board withdrew the recovery proceedings initiated against the petitioner upon the direction of the Deputy Secretary to Government

vide D.O.Lr.No.366/VI/81-1, dated 26.3.1981 and the Board, in its resolution dated 10.2.1981, requested the District Collector, Warangal to postpone the auction pending exploration of alternative methods of revitalizing the activities at this premises, but the Board has not initiated any steps to revitalize the petitioner-society. In fact, in the counter filed by the 1st respondent-Board, this aspect is not at all dealt with. The resolution, dated 10.2.1981 and the proceedings dated 26.5.1981 of the 1st respondent-Board filed by the petitioner along with his reply affidavit clearly establish that the Board with a view to revitalizing the petitioner-society had asked the Collector to postpone the auction, but so far the Board has not initiated any steps to revitalize the petitioner-society.

Having regard to the above facts and circumstances of the case, this Court is of the view that the impugned notice issued by Mandal Revenue Officer proposing to hold an auction is not sustainable. If the Board has initiated any steps to revitalize the petitioner-society and still the society could not come up to mark, then, probably, on a recommendation made by the Board the revenue officials may hold an auction to recover the amounts due under the Revenue Recovery Act. But, so long as the proceedings of the 1st respondent dated 26.5.1981 are in existence, this Court is of the view that the revenue authorities are precluded from holding any auction.

In the result, the writ petition is allowed setting aside the auction notice dated 19.1.1998. However, the 1st respondent is at liberty to explore the possibilities of revitalizing the petitioner-society after serving a notice on it and if it becomes impossible, then only, on the recommendations of the 1st respondent, the revenue officials may invoke the provisions of the Revenue Recovery Act. No costs.

15.03.2007

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